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[Page 10411-10413]
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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 10-01]
RIN 1505-AC23

Extension of Import Restrictions Imposed on Certain Categories of
Archaeological Material From the Pre-Hispanic Cultures of the Republic of El
Salvador

AGENCIES: Customs and Border Protection, Department of Homeland Security;
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of the Republic of El Salvador (El Salvador). The restrictions, which were originally imposed by Treasury Decision (T.D.) 95-20 and extended by CBP Decision (Dec.) 05-10 are due to expire on March 8, 2010. The Under Secretary of State for Public Diplomacy and Public Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions.

Accordingly, these import restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to reflect this extension until March 8, 2015. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. T.D. 95-20 contains the Designated List of archaeological material representing Pre-Hispanic cultures of El Salvador, and describes the articles to which the restrictions apply.

DATES: Effective Date: March 8, 2010.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Charles Steuart, Chief, Intellectual Property Rights and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0093. For operational aspects, Michael Craig, Chief, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6558.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 et seq.), the United States entered into a bilateral agreement with the Government of the Republic of El Salvador (El Salvador) on March 8, 1995, concerning the imposition of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of El Salvador. On March 10, 1995, the former United States Customs Service (now U.S. Customs and Border Protection (CBP)) published Treasury Decision (T.D.) 95-20 in the Federal Register (60 FR 13352), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. 19 CFR 12.104g(a).

On March 9, 2000, the former United States Customs Service (now CBP) published T.D. 00-16 in the Federal Register (65 FR 12470), which amended 19 CFR 12.104g(a) to reflect the extension for an additional period of five years. Subsequently, on March 9, 2005, CBP published CBP Decision (Dec.) 05-10 in the Federal Register (70 FR 11539), which again amended 19 CFR 12.104g(a) to reflect an additional extension for another five year period.

After reviewing the findings and recommendations of the Cultural Property Advisory Committee, and in response to a request by the Government of the Republic of El Salvador, on February 23, 2010, the Under Secretary of State for Public Diplomacy and Public Affairs, United States Department of State, concluding that the cultural heritage of El Salvador continues to be in jeopardy from pillage of Pre-Hispanic archaeological resources, made the necessary determinations to extend the import restrictions for an additional five years, on February 23, 2010, and diplomatic notes have been exchanged, reflecting the extension of those restrictions. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions.

The Designated List of Archaeological Material Representing PreHispanic Cultures of El Salvador covered by these import restrictions is set forth in T.D. 95-20. The Designated List and accompanying image database may also be accessed from the following Internet Web site address:
<http://exchanges.state.gov/heritage/culprop/esimage.html>.

The restrictions on the importation of these archaeological materials from El Salvador are to continue in effect for an additional five years. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to public interest because the action being taken is essential to avoid interruption of the

application of existing import restrictions (5 U.S.C. 533(b)(B)). For the same reasons, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

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For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12--SPECIAL CLASSES OF MERCHANDISE

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1. The general authority citation for part 12 and the specific authority citation for Sec. 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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2. In Sec. 12.104g, paragraph (a), the table is amended in the entry for El Salvador by removing the reference to "CBP Dec. 05-10" in the column headed "Decision No." and adding in its place "CBP Dec. 10-01".

David V. Aguilar,
Acting Deputy Commissioner, U.S. Customs and Border Protection.

Approved: March 2, 2010.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.

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